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GOES INTERNATIONAL, AB,
Plaintiff,
v.
DODUR LTD., et al.,
Defendants.

Case No. 14-cv-05666-LB

**ORDER GRANTING MOTION TO
COMPEL**

Re: ECF No. 104

INTRODUCTION

This is a copyright-infringement suit.¹ Before the court is plaintiff Goes International, AB's motion to compel the defendant, Dodur, Ltd., a Chinese software developer, to testify at a deposition in San Francisco, and to produce documents in connection with that deposition.² The court has already ordered Dodur to produce the documents in question.³ Dodur has not responded to Goes' motion. Both parties have consented to magistrate jurisdiction.⁴ The court held a hearing on this motion on January 12, 2017. It now grants Goes' motion to compel. The court orders

¹ See generally (1st Am. Compl. – ECF No. 1). Record citations refer to material contained in the Electronic Case File ("ECF"); pinpoint citations are to the ECF-generated page numbers at the top of documents.

² Motion – ECF No. 104.

³ ECF No. 84.

⁴ ECF Nos. 8, 22; see 28 U.S.C. § 636(c).

1 Dodur: 1) to name and send a Rule 30(b)(6) corporate representative to be deposed on February
2 20, 2017 in San Francisco in accordance with Goes' deposition notice; 2) to produce the requested
3 documents by February 6, 2017; and 3) to name a new counsel to represent it in this case by
4 February 6, 2017.

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6 PROCEDURAL HISTORY

7 The following events seem the most relevant to this discussion.⁵ Dodur participated actively in
8 the earlier stages of this case. It answered the complaint.⁶ It moved to dismiss this suit for lack of
9 personal jurisdiction.⁷ It opposed Goes' motion to compel the production of documents related to
10 damages.⁸ (The court granted that motion — but set no deadline for the production.⁹) Its lawyers
11 then moved to withdraw, citing Dodur's non-payment of fees.¹⁰ On February 22, 2016, the court
12 granted that motion; the court allowed Dodur's lawyers to withdraw, but ordered them to
13 "continue to serve on Dodur all papers from the plaintiff and the court until Dodur files a
14 substitution of counsel."¹¹ Dodur has not yet named a new lawyer. Nor has it produced any
15 documents.¹²

16 The plaintiff now moves the court to do two things. First, to order that Dodur — which, again,
17 is a Chinese corporation — produce a Rule 30(b)(6) corporate representative for deposition in San
18 Francisco on February 20, 2017.¹³ Second, to order that Dodur produce, by February 6, 2017, "all
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20 ⁵ Fuller descriptions of this case appear in the court's previous orders: one on the defendants' motion
21 to dismiss (ECF No. 51 at 1–9) and one on the plaintiff's earlier motion to compel (ECF No. 84 at 1–
3).

22 ⁶ ECF No. 52.

23 ⁷ ECF Nos. 34, 39. The court denied Dodur's jurisdictional motion but granted that of its two former
24 co-defendants. (ECF No. 51.) Which is to say, the court held that it could exercise personal jurisdiction
over Dodur. (*Id.*)

25 ⁸ See ECF Nos. 69, 74–76, 82.

26 ⁹ ECF No. 84.

27 ¹⁰ ECF No. 85.

¹¹ ECF No. 89 at 3.

¹² Lesowitz Decl. – ECF No. 104-1 at 2 (¶ 3).

¹³ See Mot. – ECF No. 104 at 2.

1 documents that it is required to produce”; this includes the damages-related material that the court
2 earlier ordered Dodur to provide to Goes.¹⁴ Perhaps more exactly, Goes asks that Dodur be made
3 to produce “all documents that it previously agreed to produce and that the Court found that Dodur
4 must produce.”¹⁵ And it asks that all such material be produced “no later than two weeks” before
5 the deposition.¹⁶

6 By declaration, Goes states that it attached a notice of deposition to a letter (in both English
7 and Mandarin Chinese) that it emailed on December 1, 2016 to Dodur’s CEO.¹⁷ Goes has not
8 provided the court with the actual deposition notice. Its cover letter to Dodur, however, states the
9 basic point of the deposition (to produce a corporate representative to testify), and names the city
10 and proposed date for the deposition (while leaving open the chance that the parties might agree to
11 another “mutually convenient time”).¹⁸ The letter reminded Dodur of the court’s document-
12 production order, as well, and asked Dodur to produce those documents two weeks before any
13 deposition of a Dodur representative.¹⁹ Finally, Goes warned Dodur that if it did not agree to the
14 deposition by December 7, 2016, Goes would move to compel the deposition and related
15 production.²⁰

16 ANALYSIS

17 1. The Motion to Compel

18 Goes’ motion is well grounded in all respects. The plaintiff correctly argues that this court can
19 compel a foreign-national defendant, like Dodur, over whom it has personal jurisdiction, to attend
20 a deposition in the United States. Strictly speaking, the deposition notice itself suffices to compel

22 ¹⁴ *Id.* at 6–7.

23 ¹⁵ *Id.* at 6.

24 ¹⁶ *Id.*

25 ¹⁷ Lesowitz Decl. – ECF No. 104-1 at 2 (¶ 2), 4–7 (letters). The letter’s recipient is a Mr. Wang Li
26 Ming, whom Dodur’s former lawyers described as Dodur’s “CEO.” *See* (Kao Decl. – ECF No. 85-1 at
2 [¶ 4]).

27 ¹⁸ *Id.* at 4.

28 ¹⁹ *Id.* at 5.

²⁰ *Id.* at 4–5.

1 such a deposition. *See, e.g., Hyde & Drath v. Baker*, 24 F.3d 1162, 1166 (9th Cir. 1994) (“[T]here
2 was no abuse of discretion in ordering the depositions [of Hong Kong corporations] to occur in
3 San Francisco.”); *Roberts v. Heim*, 130 F.R.D. 430, 437, 438–39 (N.D. Cal. 1990) (ordering Swiss
4 litigant to appear for deposition in San Francisco); *Société Nationale Industrielle Aérospatiale v.*
5 *United States Dist. Ct.*, 482 U.S. 522, 533–46 (1987) (federal procedural rules and Hague
6 Convention are alternate means of obtaining discovery from foreign-national litigants); W.
7 Schwarzer *et al.*, *Cal. Practice Guide: Federal Civil Procedure Before Trial ¶¶* 11:1281 (2016)
8 (“Foreign nationals . . . who are parties to an action are subject to the court’s personal jurisdiction
9 and may be deposed wherever the court directs.”) (citing *GTE Prods. Corp. v. Gee*, 115 F.R.D. 67,
10 68–69 (D. Mass. 1987) (notice itself effective)). And, again, the court has already ordered Dodur
11 to produce the documents that Goes seeks in connection with the deposition.²¹

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13 2. Order to Show Cause — Dodur Must Name New Counsel

14 A corporation — indeed, any business entity — can appear in federal court only through an
15 attorney. *Pro se* corporate representation is not allowed. *E.g., Rowland v. Cal. Men’s Colony*, 506
16 U.S. 194, 202 (1993); *United States v. High Country Broad. Co.*, 3 F.3d 1244, 1245 (9th Cir.
17 1993); N.D. Cal. Civ. L.R. 3-9(b) (“A corporation, unincorporated association, partnership or other
18 such entity may appear only through a member of the bar of this Court.”).

19 This court granted Dodur’s former lawyers’ motion to withdraw on February 22, 2016.²²
20 Counsel had informed Dodur of its intent to withdraw and, apparently in view of the company’s
21 inability to pay its lawyers, Dodur “consented to the withdrawal.”²³ The lawyers nonetheless filed
22 one last case-management statement, and appeared at a case-management conference, on Dodur’s
23 behalf.²⁴ The court ordered Dodur’s former attorneys to continue serving Dodur with filings in this

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26 ²¹ ECF No. 84.

27 ²² ECF No. 89.

28 ²³ Kao Decl. – ECF No. 85-1 at 2 (¶¶ 3–4).

²⁴ ECF Nos. 93, 95.

1 suit until Dodur filed a substitution of counsel.²⁵ The latter directive of course should have entailed
2 sending Dodur a copy of the withdrawal order.

3 That was almost a year ago. Dodur has not yet filed a substitution of counsel. Nor has it
4 otherwise indicated to the court — or, for all that the record shows, to the plaintiff — what it
5 intends to do in this respect. A corporate defendant who fails to substitute counsel after one has
6 withdrawn will eventually find itself subject to default judgment. *See, e.g., Solaria Corp. v. T.S.*
7 *Energie e Risorse, S.R.I.*, 2014 WL 7205114, *1–2, *4 (N.D. Cal. Dec. 17, 2014) (Conti, J.)
8 (granting Rule 55 default judgment against corporate defendant who failed to substitute counsel
9 for four-and-a-half months after previous lawyers withdrew); *City of New York v. Mickalis Pawn*
10 *Shop, LLC*, 645 F.3d 114, 128–33 (2nd Cir. 2011) (affirming default judgment against LLC that
11 “withdrew its counsel without retaining a substitute”); *cf., e.g., Ringgold Corp. v. Worrall*, 880
12 F.2d 1138, 1141 (9th Cir. 1989) (affirming default judgment on counterclaims where plaintiff did
13 not attend pretrial conferences and “fail[ed] to attend” the first day of trial).²⁶

14 * * *

15 CONCLUSION

16 For these reasons, the court grants Goes’ motion to compel. The court orders Dodur to do the
17 following:

- 18 1. Name a Rule 30(b)(6) corporate representative and make that person available to
19 testify at a deposition in San Francisco on February 20, 2016, in compliance with
Goes’ deposition notice.
- 20 2. Produce all appropriate documents — those that it agreed to produce, those that the
21 court ordered it to produce in February 2016, and any others that respond to Goes’
22 requests (and that are otherwise discoverable) — and to ensure that Goes receives
this material by February 6, 2016.
- 23 3. File a substitution of counsel in this lawsuit by February 6, 2016.

24 In case it proves procedurally necessary to some later act of enforcement, the court alternately
25 couches the last item — compelling Dodur to name new counsel — as an order to show cause why

27 ²⁵ ECF No. at 89 at 3.

28 ²⁶ In *Solaria, supra*, Judge Conti originally gave the corporate defendant 30 days in which to find and
name new counsel. *Solaria Corporation*, 2014 WL 7205114 at *1.

1 it has not yet substituted in a new attorney to represent it in this lawsuit. The court directs Goes to
2 serve Dodur with a copy of this order.

3 This disposes of ECF No. 104.

4 **IT IS SO ORDERED.**

5 Dated: January 12, 2017



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7 LAUREL BEELER
United States Magistrate Judge